

SPECIAL NOTICE

July 3, 2002

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Changes Relating to the Definition of Rental of Real Estate for Hotels and Motels

Second Substitute House Bill (2SHB) 1531 redefined rental of real estate for hotels and motels. Previously, for the rental of a room to be considered a rental of real estate the same room had to be occupied by the tenant for 30 continuous days or more.

Effective September 1, 2001, the *sale of or charge made for* the furnishing of lodging for a period of thirty continuous days or more is considered a rental or lease of real estate. These types of agreements are not subject to retailing B&O tax or retail sales tax. Additionally, they would also be exempt from the special hotel motel tax and the trade and convention center taxes (if imposed in that area). There is still a requirement that the tenant commit to stay for a period of 30 consecutive days prior to actually paying for the room.

The following are examples of transient (taxable) and non-transient (exempt) lodging.

Example #1: An individual commits in writing to staying for a period of 30 consecutive days prior to arrival. The lodger is assigned a room but 10 days into the stay is moved to another room. Provided the person pays for 30 consecutive days, this will be considered a rental of real estate and not subject to any Washington state taxes.

Example #2: An airline contracts with a motel to pay for a minimum of 10 rooms per night even if a lesser number of rooms are occupied for the month of April. On the 10th of April the airline only occupies eight rooms. Throughout the 30 day billing period the airline is charged for 10 rooms per night. The charges for the rooms are considered non-transient rental and are not subject to any state tax. Any charges for rooms over and above the 10 rooms will be considered transient rental and subject to retailing B&O tax, retail sales tax, and special hotel/motel tax and convention and trade center tax if applicable.

Example #3: An airline contracts with a motel to keep 15 rooms available for the month of April. The airline is allowed to cancel the rooms without paying for them if the motel is contacted before 6:00 PM. During the 30 day billing period the fewest number of rooms paid for is six. The six rooms will be considered non-transient rental and are not subject to any state tax. The rooms over and above the minimum six rooms will be considered transient rental and subject to retailing B&O tax, retail sales tax, and special hotel/motel tax and convention and trade center tax if applicable.

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